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CF 2001

IN THE HIGH COURT OF JUDICATURE AT BILASPUR:C.G.

W.P.no. 218 /2003

PETITIONERS :

1. Jaspal Singh, aged 45 yrs., s/o late Shri Pritam Singh Chawla, at Pritam Automobiles, opp. Oswal Petrol pump, Telibandha, Raipur, C.G.

2. Amarjit Singh, aged 32 yrs., s/o late Shri Pritam Singh Chawla, at Pritam Automobiles, opp. Oswal Petrol pump, Telibandha, Raipur, C.G.

VERSUS.

RESPONDENTS :

1. State of Chhattisgarh,through Secretary to the Ministry of Home Affairs, D.K.Singh Bhawan Secretariat, Raipur,C.G.

2. The Superintendent of Police ,Raipur,C.G.

3. M/s Cholamanadalam Investment and Finance Company Ltd., at its branch office PithaliaComplex,Moudhapara,Raipur,C.G.

P. R. No. ..... 16.6.03 .....
Presented by Shri D. Nayar .....
dated ..... 20.06.03 .....

Writ Petition Under Articles 226 and 227 Of The Constitution:

(12)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.2118/ सन् 2003

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

25.07.2003

Sri Bhishma Kinger, counsel for the petitioners.

This is the writ petition under Articles 226 and 227 of the Constitution of India, seeking relief that respondent No.3 be restrained from prosecuting the petitioners for the commission of the offence punishable under Section 138 of the Negotiable Instruments Act.

The case of the petitioners is that petitioner No.1 purchased a truck bearing registration No.CG-04/6818 under a hire purchase scheme by raising loan of Rs.5,50,000/- from respondent No.3 to be repayable by monthly installments as per the agreement No.RAHP-041513 dated 10th May, 2001. After taking the loan, petitioner No.1 repaid Rs.3,50,000/- against the loan amount, but he could not make further installments due to ailment of his wife. The petitioners requested for time to pay the outstanding installments, but respondent No.3 on 19.07.2002 seized the vehicle without recourse to any competent Court of law. On 31st July, 2002 and on 4th September, 2002, written representations were sent by petitioner No.1 to respondent No.3 to accept the outstanding installments, but to no avail. On 4th September, 2002, petitioner No.2 also offered to the said respondent to accept either the outstanding installments of Rs.2,00,000/- or finally settle the matter by accepting a lump sum payment of Rs.4,25,000/-. But respondent No.3 did not accede to either of the terms. Respondent

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XI-HC-22

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.2118/ सन् 2003

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

No.3 has also charged Rs.500/- as penalty for the dishonour of the cheque and for seizure of the vehicle. On 22.07.2002, a notice was sent demanding the payment of the balance amount so as to release the vehicle. On 15th March, 2003, respondent No.3 again sent a notice to the petitioners making illegal demand of payment of Rs.70,468/-. On 06.06.2003, respondent No.3 sent a demand notice to the petitioners alleging the dishonour of the cheques on 29.04.2003.

I have heard the learned counsel for the petitioners.

The learned counsel for the petitioners submits that the blank cheques which were given to respondent No.3 at the time of taking the loan are being misused. Respondent No.3 took into possession the truck of petitioner No.1 without giving an opportunity to the petitioners and sold the said truck. Therefore, the proceeding instituted by respondent No.3 on account of the dishonour of the cheques may be quashed.

I fail to under stand how this writ petition lies. This is a dispute between the petitioners and respondent No.3/Company and moreover it is a dispute based on an agreement in which petitioner No.1 took a loan. As per the petitioner, now respondent No.3 is taking recourse to recover the amount through cheques and has filed the complaint under Section 138 of the Negotiable Instruments Act. This is a simple dispute between the private parties. If the petitioner has any grievance he can have his remedy by approaching the civil or criminal Court. Alternative

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XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.2118/ सन् 2003

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	remedy is available to the petitioner. Moreover, the State is not a party in this matter and the State is not even remotely concerned with this matter. Therefore, no writ petition lies in the matter and the same is dismissed as not maintainable. In view of this order, M.(W.)P.No.1910/2003 and I.A. No.6446/2003 stand disposed of. Sd/- L.C. Bhadoo Judge	

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